

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

BIANCA CARPENTER,)	
)	
Plaintiff,)	
)	
v.)	Case No. 7:19-cv-176
)	
MEDICAL DATA SYSTEMS, INC. d/b/a)	
Medical Revenue Service,)	
)	
Defendant.)	

PLAINTIFF’S COMPLAINT

Plaintiff, BIANCA CARPENTER (“Plaintiff”), through her attorney, Agruss Law Firm, LLC, alleges the following against Defendant, MEDICAL DATA SYSTEMS, INC. d/b/a Medical Revenue Service (“Defendant”):

INTRODUCTION

1. Count I of Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act 15 U.S.C. § 1692, et seq. (“FDCPA”).
2. Count II of Plaintiff’s Complaint is based on the Texas Debt Collection Act Tex. Fin. Code Ann. § 392, et al. (“TDCA”).

JURISDICTION AND VENUE

3. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337, 1367, and 15 U.S.C. § 1692k, and 15 U.S.C. § 1693(m).
4. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained within.

5. Defendant conducts business in Odessa, Ector County, Texas.
6. Venue and personal jurisdiction in this District are proper because Defendant does or transacts business within this District, and a material portion of the events at issue occurred in this District.

PARTIES

7. Plaintiff is a natural person residing in Odessa, Ector County, Texas.
8. Plaintiff is a consumer as that term is defined by the FDCPA and TDCA.
9. Plaintiff allegedly owes a debt as that term is defined by the FDCPA and TDCA.
10. Defendant is a debt collector as that term is defined by the FDCPA and TDCA.
11. Defendant attempted to collect a consumer debt from Plaintiff.
12. Defendant is a collection agency located in Odessa, Florida.
13. Defendant is a business entity engaged in the collection of debt within the State of Texas.
14. Defendant's business includes, but is not limited to, collecting on unpaid, outstanding account balances.
15. The principal purpose of Defendant's business is the collection of debts allegedly owed to third parties.
16. Defendant regularly collects, or attempts to collect, debts allegedly owed to third parties.
17. During the course of its attempts to collect debts allegedly owed to third parties, Defendant sends to alleged debtors bills, statements, and/or other correspondence, via the mail and/or electronic mail, and initiates contact with alleged debtors via various means of telecommunication, such as by telephone and facsimile.
18. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

19. Defendant is attempting to collect an alleged consumer debt from Plaintiff originating with Odessa Regional Medical Center.
20. Plaintiff's alleged debt owed arises from transactions for personal, family, and household purposes.
21. Within the past year of Plaintiff filing this Complaint, Defendant began calling Plaintiff on Plaintiff's telephone at xxx-xxx-8853 in an attempt to collect the alleged debt.
22. Defendant calls Plaintiff from 866-631-4680, which is one of Defendant's telephone numbers.
23. On or around February 26, 2019, Plaintiff spoke with one of Defendant's female collectors and requested for Defendant to stop calling her.
24. Despite Plaintiff's request for Defendant to stop calling her, Defendant continued to place collection calls to Plaintiff's telephone unabated.

COUNT I DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

25. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692d of the FDCPA by engaging in conduct that the natural consequences of which was to harass, oppress, and abuse Plaintiff in connection with the collection of an alleged debt, when Defendant placed collection calls to Plaintiff after Plaintiff requested for Defendant to stop calling her;
 - b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number, when Defendant continued to place collection calls to Plaintiff after Plaintiff requested for

Defendant to stop calling her;

- c. Defendant violated § 1692e(10) of the FDCPA by using any false representation or deceptive means to collect or attempt to collect any debt, when Defendant created the false impression it was permitted to call Plaintiff despite her request for Defendant to stop calling her; and
- d. Defendant violated § 1692(f) of the FDCPA by using fair or unconscionable means in connection with the collection of an alleged debt, when Defendant engaged in the foregoing conduct.

WHEREFORE, Plaintiff, BIANCA CARPENTER, respectfully requests judgment be entered against Defendant, MEDICAL DATA SYSTEMS, INC. d/b/a Medical Revenue Service, for the following:

- 26. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k;
- 27. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k; and
- 28. Any other relief that this Honorable Court deems appropriate.

COUNT II
DEFENDANT VIOLATED THE TEXAS DEBT COLLECTION ACT

- 25. Plaintiff repeats and re-alleges paragraphs 1-24 of Plaintiff's Complaint as the allegations in Count II of Plaintiff's Complaint.
- 26. Defendant violated the TDCA based on the following:
 - a. Defendant violated Tex. Fin. Code § 392.302(4) by oppressing, harassing, or abusing Plaintiff by causing a telephone to ring repeatedly or continuously, or making repeated or continuous telephone calls, with the intent to harass a person

at the called number, when Defendant placed collection calls to after Plaintiff requested for Defendant to stop calling her.

WHEREFORE, Plaintiff, BIANCA CARPENTER, respectfully requests judgment be entered against Defendant, MEDICAL DATA SYSTEMS, INC. d/b/a Medical Revenue Service, for the following:

27. For statutory damages provided and pursuant to Tex. Fin. Code Ann. § 392.403 and/or Tex. Bus. & Com. Code § 17.50(d);
28. For attorneys' fees, costs and disbursements;
29. Injunctive relief pursuant to Tex. Fin. Code Ann. § 392.403(a)(1); and
30. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

DATED: July 18, 2019

RESPECTFULLY SUBMITTED,

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